

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Deborah Platt Majoras, Chairman**
 Pamela Jones Harbour
 Jon Leibowitz
 William E. Kovacic
 J. Thomas Rosch

In the Matter of)	
)	
EQUITABLE RESOURCES, INC.,)	
a corporation,)	
)	
DOMINION RESOURCES, INC.,)	
a corporation,)	
)	
CONSOLIDATED NATURAL GAS COMPANY,)	Docket No. 9322
a corporation,)	
)	
and)	
)	
THE PEOPLES NATURAL GAS COMPANY,)	
a corporation.)	

**ORDER DISMISSING COMPLAINT
[Public Version]**

On March 1, 2006, Respondent Equitable Resources, Inc. (“Equitable”) executed an agreement to acquire the capital stock (“Agreement”) of Respondent The Peoples Natural Gas Company (“Peoples”) from Respondent Consolidated Natural Gas Company, a subsidiary of Respondent Dominion Resources, Inc. On March 14, 2007, the Commission issued the Administrative Complaint in this matter, alleging that the March 1, 2006 Agreement violated Section 5 of the Federal Trade Commission Act, and that Equitable’s proposed acquisition of Peoples, if consummated, would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. On April 13, 2007, the Commission filed a complaint and motions for a temporary restraining order and a preliminary injunction against Respondents in the United States District Court for the Western District of Pennsylvania, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), seeking to prevent the merger, and thereby maintain the *status quo*, during the pendency of the administrative proceeding. On May 14, 2007, the District Court granted the Defendants-Respondents’ motion to dismiss the complaint on state action grounds. On May 16, 2007, the Commission filed an emergency motion for an injunction pending appeal in the District Court, which the Court denied on May 21, 2007. On May 18,

2007, the Commission filed a notice of appeal of the District Court judgment -- and on May 21, 2007, filed an emergency motion for an injunction pending appeal -- with the United States Court of Appeals for the Third Circuit, in *Federal Trade Commission v. Equitable Resources, Inc., No. 07-2499*. On June 1, 2007, the Court of Appeals issued an Order granting the Commission's motion for an injunction pending appeal, and that Order remains in effect.

Complaint Counsel have now filed an Unopposed Motion To Dismiss Complaint ("Motion") -- which the Respondents do not oppose -- due to a change in Respondents' circumstances. The Motion recites that on January 15, 2008, Respondents Equitable and Dominion publicly announced that they had mutually terminated the March 1, 2006 Agreement, and that on January 17, 2008, Respondent Equitable filed a notice of the termination with the U.S. Securities and Exchange Commission. The Motion further recites that [redacted

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The Commission has determined to dismiss the Administrative Complaint, consistent with both Commission precedent and the current posture of this case. In *Swedish Match*,¹ for example, the Commission dismissed the administrative complaint without prejudice after the parties determined to abandon the transaction at issue and Swedish Match AB withdrew the applicable HSR Notification and Report Form. The Commission noted:

The withdrawal of the Notification and Report Form -- and the parties' abandonment of the February 10, 2000 Asset Purchase Agreement -- ensure that the most important elements of the relief set out in the administrative complaint's Notice of Contemplated Relief have been accomplished without the need for further litigation in this case. Therefore, the public interest warrants dismissal of the administrative complaint. The Commission has determined to do so, however, without prejudice, because it is not reaching a decision on the merits.²

¹ *In the Matter of Swedish Match North America Inc., and National Tobacco Company, L.P., Docket No. 9296 (Swedish Match)*, Order Dismissing Complaint (January 4, 2001), available at <http://www.ftc.gov/os/2001/01/swedishdismisscmp.htm>.

² *Id.*, citing *R.J. Reynolds Tobacco Company, Docket No. 9285*, Order Dismissing Complaint (January 26, 1999), at 4.

Similarly, in *H.J. Heinz*,³ the Commission dismissed the administrative complaint after the Respondents abandoned the transaction at issue.

In this matter, as in *Swedish Match*, the most important elements of the relief set out in the Notice of Contemplated Relief in the administrative complaint have been accomplished without the need for further administrative litigation. In particular, the acquisition Agreement at issue has now been terminated, and the proposed acquisition has been enjoined pending further order of the Court of Appeals. Moreover, Complaint Counsel maintain [redacted

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For the foregoing reasons, the Commission has determined that the public interest warrants dismissal of the Administrative Complaint in this matter. The Commission has determined to do so without prejudice, however, because it is not reaching a decision on the merits. Accordingly,

IT IS ORDERED THAT the Administrative Complaint in this matter be, and it hereby is, dismissed without prejudice.

By the Commission.

Donald S. Clark
Secretary

ISSUED: January 31, 2008

³ *In the Matter of H.J. Heinz Company, Milnot Holding Corporation, and Madison Dearborn Capital Partners, L.P., Docket No. 9295 (H.J. Heinz), Order Dismissing Complaint* (December 4, 2001), available at <http://www.ftc.gov/os/2001/12/heinzorder.pdf>